

State Supreme Court agrees to hear prosecutor phone records case

By Sean Robinson
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The decision won't come for a while, but the Washington State Supreme Court has agreed to tackle a long-running dispute involving Pierce County Prosecutor Mark Lindquist's personal phone records and text messages.

Wednesday, the high court agreed to review a Sept. 9, 2014, ruling by the state Court of Appeals. The appeals court ruled that a lower court must examine the records to determine whether any meet the standard for public disclosure.

Open-government advocates have been monitoring the case, another in a growing list of legal disputes involving public officials using private devices for work-related communications.

The underlying case, *Nissen v. Pierce County*, dates to 2011.

Glenda Nissen, a sheriff's deputy, sued for access to Lindquist's personal cellphone records and copies of text messages sent over a period of a few days, arguing they contained material relevant to public business.

The county and Lindquist initially conceded that some of the records might relate to public business, but later argued the records were private. The lower court agreed. Nissen appealed.

The appeals court reversed the lower court, finding the records could be public if they pertained to public business.

"That such government-business-related text messages were contained on a personal cellular phone is irrelevant," the appeals court ruled, citing prior decisions by the Supreme Court.

Arguing against the ruling, attorneys for Lindquist and the county contended that a search of Lindquist's personal phone, even if conducted in private by a judge, would violate his privacy rights and federal protections against unreasonable searches.

The appeal means more public money spent defending Lindquist's position. The county has paid \$253,449 to outside attorneys working on the case, according to billing records from the county's risk management division.

Involved parties in the case must submit supplemental briefs within 30 days. The high court also could request oral argument, but that decision hasn't been made yet.

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